Office Action Summary	Application No.	Applicant(s)	
	09/809,004	MARSHALL ET AL.	
	Examiner	Art Unit	
	DOMINIC D. SALTARELLI	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution has been reopened. Applicant's submission filed on December 10, 2009 has been entered.

Response to Arguments

2. Applicant's arguments filed December 10, 2009 have been fully considered.

First, applicant argues that Zereski does not teach allowing the end user to customize a presentation.

In response, this has been found persuasive and a new ground of rejection addressing this limitation is provided herein.

Second, applicant argues that Throckmorton teaches sending primary and associated data separately, and thus does not teach the contents are overlaid in a single video data stream.

In response, the support for overlaying signals into a signal video stream is found on page 4, lines 25-26 of the originally filed specification, which states that said overlay process involves the inclusion of additional or supplementary content into the stream (voice overlay or commentary are the examples given).

As such, the claimed step of overlaying content such that they occupy the same video stream is inclusive of simply multiplexing two content signals together, just as is found in Throckmorton (see col. 5, lines 48-64).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2, 4, 6, 8-12, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zereski, Jr. et al. (5,654,886, of record) [Zereski] in view of Throckmorton et al. (5,818,441, of record) [Throckmorton] and Durham (6,330,394).

Regarding claim 15, Zereski teaches a method for merchandising information to a broadcast customer, said method comprising:

storing the merchandising information in a database (col. 6, lines 10-16);

receiving changed information (col. 3, lines 48-64);

automatically updating the stored information based on the received changed information (col. 5 line 55 – col. 6 line 16);

defining a video layout including a subset of the stored information and a screen arrangement of the stored information (col. 5, lines 34 – 54 and col. 6, lines 36-67;

formatting a broadcast-ready video data stream that includes the subset of stored information such that the subset of stored information will be positioned on an output screen according to the selected screen arrangement (col. 7, lines 13-34); and

transmitting the broadcast-ready video data stream from a server to the broadcast customer (col. 7 line 54 – col. 8 line 13).

Zereski fails to disclose the defining of a video layout is based on a selection made by the broadcast customer, receiving the broadcast-ready video data stream from the server and combining, prior to broadcast, the received broadcast ready data stream with video content broadcast by the broadcast customer such that the received broadcast-ready video data stream and the video content broadcast by the broadcast customer are overlaid in a resulting digital video data stream.

In an analogous art, Throckmorton discloses a system wherein a broadcast customer (col. 3, lines 35-67) receives broadcast ready data streams from a providing server (the associated data received through associated data generation unit 16, shown in fig. 2) and overlays the broadcast ready data stream with video content broadcast by the broadcast customer (col. 5, lines 19-64) providing the benefit of enabling a broadcast customer to enhance their own broadcast video product with additional content retrieved from a server which supplements the original video product (col. 7, lines 13-30).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski to include receiving the broadcast-ready video data stream from the server and combining, prior to broadcast, the received broadcast ready data stream with video content broadcast by the broadcast customer such that the received broadcast-ready video data stream and the video content broadcast by the broadcast customer are overlaid in a resulting video digital data stream, as taught by Throckmorton, for the benefit of enabling a broadcast customer to enhance their own broadcast video product with additional content retrieved from a server which supplements the original video product, such as financial data or weather information (Throckmorton, col. 5, lines 33-37).

Zereski and Throckmorton fail to disclose defining a video layout is based on a selection made by the broadcast customer.

In an analogous art, Durham teaches customizing content received from a web server by a client according to video layout customization options which are selected by a user (col. 9 line 33 - col. 10 line 2, which teaches a user inputting information designating which types of information are to be included in a personalized, custom built web page).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski and Throckmorton to include in the step of defining a video layout, selections made by the broadcast customer, as taught by Durham. While Zereski teaches enabling making changes to layout

formats, it is unclear as far as how exactly the changes to layout formatting takes place (Zereski, col. 8, lines 43-52), leaving it up to the practitioner to enable such using any known method of doing so. Durham is evidence that one method was the selection of such by end users wishing to create customized web pages.

Regarding claim 2, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said defining is performed at a single location that is remote form a location of the broadcast customer (customers access the finished product remotely over the Internet, Zereski, col. 7, lines 54-60).

Regarding claim 4, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said merchandising information comprises weather information (Zereski, col. 3, lines 15-47 and Durham, col. 9, lines 53-65) and sports information (Durham, col. 9, lines 53-65).

Regarding claim 6, Zereski, Throckmorton, and Durham disclose the method of claim 4, wherein said merchandising information includes weather data from sites within a marketing area of the broadcast customer (Zereski, col. 7 line 54 – col. 8 line 13).

Regarding claim 8, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said defining is performed at a location that is

remote from a location of the broadcast customer and includes selecting a desired screen layout of the stored information to be included in the broadcast-ready data stream by the broadcast customer (Zereski, col. 6, lines 17-23 and col. 8, lines 43-52, wherein the selection of elements to include in the customized stream are selected by the end user, Durham, col. 9 line 33 - col. 10 line 2).

Regarding claim 9, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said transmitting further comprises transmitting the broadcast-ready data stream to the customer upon a command of the broadcast customer (Zereski, col. 7 line 54 – col. 8 line 13).

Regarding claim 10, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said defining further comprises integrating the desired subset of stored information with advertising material (Zereski, fig. 8, advertisement 146).

Regarding claim 11, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein each broadcast-ready data stream is different from another broadcast-ready data stream (there are different presentations for different geographical regions, Zereski, col. 7 line 54 – col. 8 line 13).

Regarding claim 12, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein said information includes proprietary information (Zereski, col. 3, lines 18-64).

Regarding claims 14, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein formatting further comprises formatting the stored information to produce a real time broadcast-ready data stream (Zereski, col. 5, lines 4-23).

Regarding claims 16-18, Zereski, Throckmorton, and Durham disclose the method of claim 15, wherein Zereski discloses the selection made by the broadcast customer is accomplished using an interactive dialog stored on the server (a user, through a graphical user interface, specifies presentation specifications, col. 6, lines 17-23 and col. 8, lines 43-52, this includes defining first and second screen positions of content in the video layout for the stored information, in order to creates the presentations shown in figs. 5-10).

Regarding claim 19, Zereski, Throckmorton, and Durham disclose the method of claim 15, further comprising displaying the resulting data stream in which the received broadcast-ready data stream and the video content broadcast by the broadcast customer are simultaneously displayed (Throckmorton teaches incorporating secondary content into a primary broadcast so that it is seen “as

part of a program that is being viewed", col. 7, lines 21-29, and since Throckmorton also teaches that the primary streams "stand on their own merit", col. 3, lines 55-67, there are no intentional blank spots in the stream inserted to include a full screen display of associated content, leaving the only possibility that the alternative content, in order to be viewed "as part of the program", is added as an on screen overlay along with the primary content).

5. Claims 3, 5, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zereski, Throckmorton, and Durham as applied to claims 2 and 15 above, and further in view of Murphy (6,564,380, of record).

Regarding claim 3, Zereski, Throckmorton, and Durham disclose the method of claim 2, but fail to disclose said defining further comprises integrating the desired subset of stored information with images associated with the broadcast customer.

In an analogous art, Murphy discloses a method for merchandising information to a broadcast customer (col. 6 line 15 – col. 7 line 45 and col. 10 line 38 – col. 11 line 4 and col. 17, lines 9-40) wherein images associated with the broadcast customer are integrated in to the merchandising information (col. 18, lines 15-25), creating markings on the content that marks it as unique to the broadcast customer.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski, Throckmorton, and Durham to

include images associated with the broadcast customer are integrated in to the merchandising information, as taught by Murphy, for the benefit of creating markings on the content that marks it as unique to the broadcast customer, preventing possible theft of the content.

Regarding claim 5, Zereski, Throckmorton, and Durham disclose the method of claim 4, but fail to disclose said merchandising information includes scores and schedules of contests a marketing area of the broadcast customer.

However, Murphy providing information that is very specific, localized, and commercial in nature, including high-interest events that are used to promote a business (col. 18 line 55 – col. 19 line 7) in addition to more traditional information such as sport related information (col. 18, lines 5-9).

Therefore it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski, Throckmorton, and Durham to include scores (such as sports scores of local teams, as suggested by Murphy in including sports information) and schedules of contests within the customer's marketing area (which fall under the category of high interest events used to promote a business disclosed by Murphy), for the benefit of increasing the selection of information to be made available to users which would interest them.

Regarding claim 7, Zereski, Throckmorton, and Durham disclose the method of claim 4, but fail to disclose said defining further comprises associating weather and sports information in the desired subset of stored information with a game-time forecast of weather conditions at a specific game location.

However Murphy does teach providing localized information (col. 6 line 64 – col. 7 line 16 and col. 16, lines 64-67), and weather and sports information (col. 18, lines 5-9), in addition to performing advanced editing on a video stream according to the requests of a customer (the PoP combines sets of image data to create composite image data as a finished product video feed, col. 18, lines 15-25).

Therefore it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski, Throckmorton, and Durham to include in said defining integration of weather and sports information (localized weather and sports information combined into a video stream) to provide a game-time forecast of weather conditions at a specific game location (wherein including the time and location of a sporting event along with the local weather in a single video stream provides this forecast).

Regarding claim 13, Zereski, Throckmorton, and Durham disclose the method of claim 15, but fails to disclose access to the broadcast ready data stream is limited to only the broadcast customer by use of a password.

In an analogous art, Murphy discloses a method for merchandising information to a broadcast customer (col. 6 line 15 – col. 7 line 45 and col. 10 line 38 – col. 11 line 4 and col. 17, lines 9-40) wherein access to a broadcast ready data stream is limited to only the broadcast customer by use of a password (col. 11, lines 27-38), for the benefit of restricting any unauthorized access.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Zereski, Throckmorton, Durham to include access to the broadcast ready data stream is limited to only the broadcast customer by use of a password, as taught by Murphy, for the benefit of restricting any unauthorized access and securing the transaction.

Conclusion

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dominic D Saltarelli/
Primary Examiner, Art Unit 2421